

The Examiner rejected claims 1-2 under § 102(b) as being unpatentable over U.S. Patent No. 6,006,743 (*Shimek '743*) in view of U.K. Patent No. 1,033,987 (*Davies*). Applicants respectfully traverse these rejections.

Claim 1 of the present invention requires that the burner panel defines at least one aperture to provide a gas/air mixture to the top surface of the burner panel and the burner panel comprise a compression molded material.

Applicants respectfully submit that the *Davies* and *Shimek '743* references are non-analogous and it would not be obvious to one of skill in the art to combine them. *Davies* is directed to a method of forming polymeric shells to simulate fuel for use in conjunction with an electric fireplace. That is, the shells described in *Davies* are not intended to be used in an environment where the polymeric shells would be subjected to high temperatures, such as is required by a gas burner element. *Shimek '743*, on the other hand, is directed to a gas burner that is subjected to heat by combusting gas at a top surface of the burner element. Accordingly, there is no motivation to combine the teachings of *Davies* with those of *Shimek '743*.

Moreover, there would have been no motivation to combine the materials disclosed in *Davies* with the structure disclosed in *Shimek '743*. The materials disclosed in *Davies* would burn if exposed to the temperatures that are present at the top surface of the burner element disclosed in *Shimek '743*. In particular, the polyester resin disclosed in *Davies* would not be appropriate for use in a high heat application, such as a burner element, because polyesters can burn if exposed to flame. Thus, one of skill in the art would have no motivation to combine these references.

For these reasons, Applicants submit that claim 1 is allowable over the cited references. Because claim 2 depends on independent allowable claim 1, claim 2 is also believed allowable. Applicants respectfully request the withdrawal of the rejections to claims 1-2.

Rejections Under *Shimek '743* and *Shimek '464*

The Examiner rejected claims 3, 6, 9, and 19-20 as being unpatentable over *Shimek '743* in view of U.S. Patent No. 4,875,464 (*Shimek '464*). Applicants respectfully traverse these rejections.

Claim 3 requires that the burner panel be molded to form at least one preformed log wherein the at least one performed log defines at least a portion of a cavity. *Shimek '743* does not disclose a burner panel molded to resemble a log and does not disclose that at least one of the preformed logs defines at least a portion of the cavity.

Shimek '464 does not remedy these deficiencies. *Shimek '464* is directed to a system for preventing a gas flame from impinging on an artificial gas log through deflectors 22B and 22F. See col. 2, lines 61-68. *Shimek '464* achieves this by using tube burners 11B and 11F, which are the burner and form flames that exit through an opening in the artificial log. In other words, *Shimek '464* discloses two burner tubes placed within a cavity formed by a preformed log and arranged to prevent the gas flames from impinging on the artificial gas log. It would not be obvious to combine *Shimek '464* with *Shimek '743* because the purpose of the tubes and deflectors in *Shimek '464* is to prevent a flame from impinging on an artificial gas log. Accordingly, neither *Shimek '743* nor *Shimek '464*, alone or in combination, disclose or suggest a burner panel that is molded to form at least one preformed log.

Claims 6 and 9 are dependent upon independent and allowable claim 3. Therefore, claims 6 and 9 are also allowable. Applicants respectfully request the withdrawal of the rejections to claims 6 and 9.

Claim 19 of the present application includes a gas burner formed from a burner panel and a bottom burner member, where a bottom surface of the burner panel and the bottom burner member define a cavity. Additionally, in claim 19, the cavity extends above the lower portion of the top surface of the burner panel.

Neither *Shimek '743* nor *Shimek '464* disclose or suggest at least the feature that a cavity extends above the lower portion of the top surface of the burner panel. No part of the cavity in *Shimek '743* extends above any part of the top surface of the burner panel. *Shimek '464* does not remedy this deficiency because it does not disclose a cavity that is defined by a bottom surface of a burner panel and a bottom burner member as recited in claim 19. Thus, *Shimek '464* cannot disclose or suggest a cavity that extends above a lower portion of the top surface of the burner panel.

Claim 20 is dependent upon independent and allowable claim 19. Therefore, claim 20 is also allowable. Applicants respectfully request the withdrawal of the rejections to claims 19 and 20.

Rejections Under Shimek '743, Shimek '464, and Davies

The Examiner rejected claim 5 under §103(a) as being unpatentable over *Shimek '743* in view of *Shimek '464*, and further in view of *Davies*. Applicants respectfully traverse this rejection.

Claim 3 is allowable for the reasons stated above. *Davies* does not remedy the deficiencies of *Shimek '743* and *Shimek '464*. Therefore, Applicants submit that claim 5 is allowable for at least the reason that it is dependent upon independent and allowable claim 3. Applicants respectfully request the withdrawal of the rejection to claim 5.

Rejections Under Shimek '237 and Davies

The Examiner rejected claims 10-18, 21-23, 25, and 26 under §103(a) as being unpatentable over U.S. Patent No. 5,941,237 (*Shimek '237*) in view of *Davies*. Applicants respectfully traverse these rejections.

Claim 10 and claims 11-18, which depend from claim 10, require a burner panel made of compression molded material. Neither *Shimek '237* nor *Davies* disclose, teach, or suggest a compression-molded burner panel. As noted above, *Davies* is directed to a method of forming polymeric shells to simulate fuel for use in conjunction with an electric fireplace. *Davies* is not directed to using compression molded materials in a high heat application, such as a burner panel. Therefore, it would not have been obvious from these references to make a burner panel from a compression molded material in view of the teaching of *Davies*. Thus, claims 10-18 are not obvious in light of *Shimek '237* and *Davies*, and withdrawal of the Examiner's rejections is respectfully requested.

Claim 21 is directed to a method for forming a gas burner including a compression molded burner panel. As discussed above, neither *Shimek '237* nor *Davies* teach or suggest such a burner panel. Accordingly, claim 21 is also not obvious in view of these references. Claims

22, 23, and 25 each depend from claim 21 and are believed allowable for the same reasons. Applicants respectfully request the withdrawal of the rejections of claims 21-23, and 25.

Claim 26 requires that the burner panel comprise a compression-molded material. As discussed above neither *Shimek '237* nor *Davies* teach or suggest such a burner panel. Therefore, claim 26 is also allowable and withdrawal of the Examiner's rejection is respectfully requested.

Rejections Under Shimek '237, Davies, and Shimek '464

The Examiner rejected claim 24 under §103(a) as being unpatentable over *Shimek '237* in view of *Davies*, and further in view of *Shimek '464*. Applicants respectfully traverse this rejection.

Claim 21 is allowable for the reasons stated above. *Shimek '464* does not remedy the deficiencies of *Shimek '237* and *Davies*. Therefore, Applicants submit that claim 24 is allowable for at least the reason that it is dependent upon independent and allowable claim 21. Applicants respectfully request the withdrawal of the rejection to claim 24.

Conclusion

In light of the foregoing amendments and remarks, Applicants submit that the pending claims 1-3, 5-6 and 9-26 are in condition for allowance and withdrawal of the Examiner's rejections is requested. Notification of such allowance is respectfully requested. Applicants also note that there may be additional reasons that the pending claims are patentably distinct from the cited references and reserve the right to raise any related arguments in the future.

The Examiner is encourage to contact Applicants' undersigned attorney, at the below listed telephone number, to discuss this matter if any questions arise upon further examination of the pending claims.

Respectfully submitted,

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